Sherlock against Sherlock.

THE Master of the Temple's REASONS FOR His Late Taking the OATH To Their Majesties, ANSWERED,

BY THE

Rector of St. George Botolph-Lane.

WITH

Modest Remarks

ON THE

Doctors Celebrated Notions

OF

Allegiance to Soveraign Powers.

——— *Quantum Mutatus ab illo,*
Turpe est Doctori, *cum culpa redarguit Ipsum.*

London, Printed for *Edward Golding*, 1690.

THE PREFACE.

THE *Church of* Rome's *Pretence to* Infallibility, *has been decryed by not a few, who, at the ſame time, have been as* Dogmatical *in every* Punctilio, *or things wholly Extrinſick to the Chriſtian Religion, as if the ſingular* Priviledge *of the* Church *had been tranſplanted from* Rome, to a People that would bring forth better Fruits thereof: *Nor has this* Imperious Principle *confined it ſelf to thoſe things which ſeem more within its Sphere* (*which, if done in* Moderation, *would never have been blamed by the Sober part of Mankind*) *but has encroacht upon* Politicians, *on a Pretence of rectifying the Unchriſtian Principles they had infected the World with: As if there was to be no manner of Knowledge in the Univerſe, but* what ſhould proceed from the Prieſts Lips: *And the* Urim and Thummim of theſe Holy Ones *hath contributed not a little* (*by rubbing off the* Laodicean Temper) *to inflame the World with a* Blind Zeal *and Virulent Hatred; and to ſet a Man and his Friends at variance together: And all this is propagated by means of a fooliſh belief in the more ſimple People, of the Infallibility of thoſe Perſons, from a* Blind Reverence *given to them, on the Account of their* Function.

That this is no fiction, will appear beyond all Contradiction, if we but conſider what hath been thrown out of Pulpits, *and not long ago dropt from the* Pens *of not a few, who have been accounted the greateſt* Proficients *in* Reaſon, *and meerly upon the foreſaid account, greedily ſwallowed up by the more Inconſiderate; tho' the more knowing of that ſide, eſpouſed thoſe* Tenets, *from a more pernicious Principle, that they might the eaſier, like the great Fiſhes, domineer over, and*

devour others; and he has wholly abandoned his Reason, to whatever their Caprice suggests, who has the Face to deny it.

Among all others, none has appeared a stouter Champion for those Tenets *in general, than this* Learned Doctor: *And, for ought I know, none has contributed more to encrease the number of* Male-contents, *to Their present Majesties, from those Principles, than* He *has; And yet, we see, how, of a sudden,* He *has been pleased to Act Diametrically, contrary to them; tho', at the same time, in his* Vindication, He *seems still to own them: Which, in the Eyes of all understanding Men, is no better than for a Person to Inveigh loudly against all manner of Debauchery, and yet, at the same time, to be guilty of some notorious Acts of it.*

I am glad, that this Learned Person *has Taken the* Oaths, (*whatever was his Motive in so doing*) *as St.* Paul *was glad that* Christ *was Preached; tho' some did it out of Envy, and others, from some other sinister Principle: But that the* Doctor *should vindicate his Taking the* Oaths, *and yet retain his former Principles, is, I confess, a Riddle beyond my Capacity to unfold. I have therefore briefly, proposed to publick Consideration, what the* Doctor *has formerly proposed as Matters of highest Importance, which seem, with a Witness, to contradict some Passages in his* Vindication, (*tho'* He, *at the same time, suggests,* That he is the same Man as formerly,) *that* He *may* (*for the satisfaction of a great many Persons, that are not a little concerned for it*) *either please to reconcile those Passages with what* He *has formerly so industriously* Preached *and* Written; *or formally retract his* former Principles *on this point, as pernicious to* All Mankind: *By doing whereof* (*for ought I know*) *he may more advantage the* Publick, *than* He *has hitherto done by all his* Learned Writings.

I might mind him, That in Vindicating *himself,* He (*as his best Topick*) *might have said something in* Vindication *of* Their Majesties Government: *But my Design being chiefly to shew* Him, *wherein* He *is at War with* Himself, *I wave it; not doubting but this* Case *will, by some other Hand, be presented to this* Learned Casuist.

The

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In his Caſe of Allegiance, Affirms,

THat all Soveraign Princes, who are ſettled in their Thrones, are placed there by God, and inveſted with his Authority, *and therefore muſt be obeyed* by all Subjects, as the Miniſters of God, *without enquiring into their Legal Right and Title to the Throne.* Alleg. *pag.* 10.

That the Scripture has given us no Directions in this Caſe, but to ſubmit

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In his Caſe of Reſiſtance.

THere *is another Objection againſt what the Apoſtle affirms, That* there is no Power but of God: The Powers that be, are ordained of God. *For, is the Power of Victorious Rebels and Uſurpers from God? Did* O. C. *receive his Power from* God? *then it ſeems, it was unlawful to Reſiſt him too, or to Conſpire againſt him.*

To this I anſwer, That the moſt Proſperous Rebel is

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submit, and pay all the Obedience of Subjects to the present Powers. *It makes no distinction, that ever I could find, between Rightful Kings, and Usurpers*; between Kings we must, and whom we must not obey; but the General Rule is, *Let every Soul be subject to the higher Powers, for all Power is of God*, Ibid. p. 18.

The English Monarchy is Hereditary, and the Lineal Heir has the Legal Right to the Crown: Grant this; But still we must consider, how far this is a Law to all private Subjects; how far every Subject is bound in Conscience by this Con-

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not the Higher Powers, while our Natural Prince, *to whom we owe Obedience and Subjection*, is in Being. *And therefore, tho' such Men may get the Power into their hand by* God's *Permission, yet not by* God's Ordinance; and he who Resists them, does not Resist the Ordinance of God, but the Usurpations of Men. *In* Hereditary Kingdoms (which is *England*) the King never Dies; *but the same minute that the natural Person of one King Dies, the Crown descends upon the next Blood; and therefore he who Rebelleth against the Father, continues a Rebel in the Reign of the Son; which commences with*

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Constitution, to give the Possession of the Crown to the *Right Heir*, and not to suffer any one else to take it; or if he do, not to pay *Allegiance to him*, or own him for his King. What Law is there that says this? And I think the reason of the thing doth not prove it. The Law doth not refer the Cognizance of such Matters to private Subjects; and therefore they are not bound by Law to take care of it; and I know nothing but Law can bind us to a legal Constitution. Legal Rights must be determined by a legal Authority; and there

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with his Father's Death.

It is otherwise indeed, where none can pretend a greater Right to the Crown, than the Vsurper; for there Possession of Power seems to give a Right. Thus many of the Roman *Emperors came to the Crown by very ill means, but when they were Possest of it, they were the* Higher Powers; for the Crown did not descend by Inheritance, *but sometimes by the Election of the Senate, sometimes the Army, which always draws a consent after it: And therefore the Apostle does not direct the Christians to enquire by what Title the Emperors* held their Crowns; *but Commands them to submit to*

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there is no Authority can take Cognizance of the Titles and Claim of Princes, and the diſpoſal of the Crown, but the Eſtates of the Realm: They indeed are obliged to take Notice of the legal Deſcent of the Crown; and if through miſtake, or any other Cauſe, they ſet the Crown upon a wrong Head, they muſt anſwer for it; but private Subjects, who have no legal Cognizance of the matter, are Bound by no Law, that I know of, to diſown a King, whom the Eſtates have owned, tho' they ſhould think the Right is in the other.

If

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thoſe who had the Power in their hands; for the Poſſeſſion of Supream and Soveraign Power is Title enough, when there is no better *Title to oppoſe againſt it.*

There are Two Examples in Scripture, which manifeſtly confirm what I have now ſaid.

The firſt in the Kingdom of Iſrael, *after the Ten Tribes had divided from the Houſe of* Judah, *and the Family of* David, GOD had not entailed the Kingdom upon any certain Family; *He had indeed, by* Abijah *the Prophet, promiſed, after* Solomon's *Death, Ten Tribes to* Jeroboam, *the Son of* Nebat,

1 Kings

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If Authority may not over-rule private Subjects in theſe Caſes, even againſt their own private Opinions, and juſtifie their Obedience to a King, who is placed in the Throne, Subjects are in a very ill Caſe, who have no Authority to judge, and no Power to reſiſt: There are numerous Caſes, wherein Subjects muſt acquieſce in the determinations of a legal *Authority*, againſt what they think a legal *Right*: The reaſon and neceſſities of Government require it; and the Law, which gives a *Right*, will not allow us to vindicate our *Right* a-

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1 Kings 11. 29, *&c. but had afterwards, by the ſame Prophet, threatened* Jeroboam *to deſtroy his whole Family*, Chap. 15. 10, 11. Baaſha *fulfils this Prophecie, by the Traiterous Murther of* Nadab (*who ſucceeded his Father* Jeroboam *in the Kingdom*) *and Uſurpt the Government himſelf, and ſlew all* Jeroboam's *Houſe*, ver. 28, 29. *This* Murther *and* Treaſon *is numbred among the Sins of* Baaſha; *for which* GOD *afterwards threatened to deſtroy his Houſe, as he had done the Houſe of* Jeroboam, *chap.* 16. *ver.* 7. Ela *ſucceeded* Baaſh, *who had no better Title than his Father, and yet* Zimri, *who*

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against a legal *Authority*. And therefore, it doth not follow *meerly from the Law of Succession; that Subjects are Bound in Conscience to own no King, who is not the rightful Heir.* Ibid. 52. 53.

The Question is not, Whether the Monarchy be Hereditary, that is agreed, but whether in an Hereditary Monarchy we must pay Allegiance to no Prince who is not the legal Heir, tho' possessed of the Throne; this the Lawyers deny, and produce Law for it; and if there be such Laws, *It is certain by Law, we may pay Allegiance to a King in Possession*, notwithstanding the fundamental

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Slew him, is accused of Treason for it, ver. 20. Zimri *Usurpt the Kingdom when he had Slew his Master, but he was only a vain Pretender to it, when he wanted Power; for when the People who were Encamped against* Gibbethon, *heard that* Zimri *had Killed the King, they made* Omri *King, and went immediately and Besieged* Tizzah, *where* Zimri *had taken Possession of the King's Palace; who, finding no way to Escape, set Fire to it himself, and died in the Flames of it. And now* Israel *was divided between* Omri *and* Tibri; *but those who followed* Omri, *prevailed against those who followed* Tibri; *and* Tibri *died, and* Omri

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tal Conſtitution of an Hereditary Monarchy; for the *Law*, which makes one, allows and commands the other; and then it is an Hereditary Monarchy, with this reſerve, of paying Allegiance to the King in Poſſeſſion, when the legal Heir cannot obtain his Right.

And this I take to be a very wiſe Conſtitution, which ſecures the Kings Right, as far as Law can do it; but if the King ſhould be deprived of his Right, (which the Experience of all Ages proves he may be) doth not think fit that the Government ſhould ſink with

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Omri *Reigned*, ver. 21.22. *All which plainly ſhews, that* where there is no regular Succeſſion to the Kingdom, *there Poſſeſſion of Power makes a King, who cannot afterwards be reſiſted and oppoſed without the guilt of Treaſon.*

But it was otherwiſe in the Kingdom of Judah, which GOD himſelf had entailed on *David's* Family, *as appears from the Example of* Joaſh, *who was concealed by his Aunt* Jehoſheba, *and hid in the Houſe of the Lord for Six Years.*

During this Time, Athaliah *Reigned, and had the whole Power of Government in her hands;* but yet this did not make her a So-

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with him, and therefore makes provision for the Security of the *Government*, and of the Subjects under the *Regnant Prince*, which the Reasons and Necessities of Government require and justifie, tho' there had been no Law for it.

Now it is enough to prove, that *Allegiance* is by Law due to a King *de facto*, if Treason may be committed against him; for no *Treason* can be committed where no *Allegiance* is due.

This is confessed, that all such Acts as are *Treason* against a King *de jure*, are *Treason*, when committed against a King *de facto*,

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veraign and irresistable Prince, the right Heir of the Crown was yet alive: *And therefore in the Seventh Year*, Jehojada *the Priest set* Joash *upon the Throne, and Slew* Athaliah, *and was guilty of no Treason or Rebellion in doing so*, 2 Kings 11. *which shews*, That no Usurpations can extinguish the Right and Title of a natural Prince. Such Usurpers, though they have the Possession of the Supream Power, yet they have no right to it; and though *GOD*, for wise Reasons, may sometimes permit such Usurpations, yet while his Providence secures the Per-

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facto, but not, say they, because *Allegiance* is due to him, but because they are against the order of *Government*, and therefore are Treason by the presumed consent of the King *de jure*. In *Answer*.

That such *Acts* are against the Order of *Government*, and very destructive to it, is the only reason why they are made Treason by Law; and this is a good reason why the Law should make them Treason against a King *de facto*, as against a King *de jure*. *Ibid. pag* 57. 58.

Yet one may reasonably presume, that a *King* who forsakes his *King-*

dom,

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Persons of such Deposed and Banished Princes from Violence, he secures their Title too. *As it was in* Nebuchadnezzar's *Vision*, Dan. 4. 26. *The Tree is cut down, but the Stump of the Roots is left in the Earth. The Kingdom shall be sure to them, after that they shall know that the Heavens do Rule.*

Case of Resistance of Supream Powers, Pages 127, 128, 129, 130, 131, 132.

Self-Defence was never allowed by *GOD* or Nature, against Publick Authority, *but only against Private Violence.*

There was a Time, when Fathers had the Power of Life and Death over their own Children: Now, I would

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dom, to consult his own Safety, will give his *Subjects* leave to consult theirs: If this will justifie a *King* to save himself, by leaving his *Kingdom*, why will it not justifie *Subjects*, when their *King* has left them, to submit and comply with the prevailing Powers, as far as is necessary to preserve themselves? That is, even by Oaths of Allegiance; *Self-Preservation is as much a Law to Subjects, as to the Prince; and he is as much Sworn to Govern and Protect his Subjects, as they are to Obey and Defend him; and if the necessities of Self-Preservation, Absolve him from his Oath of Governing*

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only ask these Men, if a Son, at that time, saw his Father coming to Kill him, and that, as he thought, very unjustly, he might Kill his Father to defend himself. This never was allowed by the most Barbarous Nations in the World: and yet it may be justified by this Principle of Self-Defence, as it is urged by those Men; which is a plain Argument that it is false. It is an express Law, That he that Smiteth his Father or his Mother, shall be surely put to Death, *Exod.* 21. 15. *and yet then the Power of Parents was restrained by Publick Laws. And the Authority of a Prince is not less Sacred than of a Parent;* He's God's Minister

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ing and Protecting his People, I deſire to know, why the ſame neceſſity will not abſolve *Subjects* from their Oaths to their Prince. *A Prince may Govern by Law, and Protect his Subjects, and yet in Fact they deny their Allegiance to him.* Alleg. p. 42.

It is true, we muſt in all Caſes be contented to ſuffer in doing our Duty; for we muſt chuſe rather to Suffer, than to Sin; and it is no Argument, that any thing ceaſes to be my Duty, becauſe it expoſes me to Suffering: *But then we muſt be very ſure that it is our Duty; that it is expreſly enjoyned us by the Laws of God*

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niſter and Vicegerent, and Subjects are expreſly forbid to reſiſt; and it is a vain thing to pretend a natural Right, againſt the expreſs Law of God.

2. *For the Sole Power of the Sword is in the Kings hands;* and therefore no Private Man can take the Sword in his own Defence, *but by the Kings Authority; and certainly he cannot be preſumed to give any Man Authority to uſe the Sword againſt himſelf. And therefore, as* Chriſt *tells* Peter, He that takes the Sword, ſhall Periſh by the Sword; *He who draws the Sword againſt the lawful Powers, deſerves to dye by it.*

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God and Nature, before we venture to ſuffer for it. But then we are to learn our Duty, not from any expreſs Law of God or Nature, but from the Reaſon and Nature of things. *It is a ſufficient Argument, that it is not my Duty, which will expoſe me to great ſufferings, without ſerving any Good end*; nay, which expoſes me to Sufferings, for contradicting the natural end and intention of that Duty, for which I pretend to Suffer.

But let us grant, that this Principle is the beſt Security to the Rights of Princes; is the Right of any Prince ſo Sacred, as

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3. *We may conſider alſo, That it is an external Law,* That private Defence muſt give place to publick Good. Now, he that takes Arms to defend his own Life, and ſome few others, involves a whole Nation in Blood and Confuſion, and occaſions the miſerable Slaughter of more Men, than a long Succeſſion of Tyrants could deſtroy. *Such Men Sacrifice many Thouſand Lives, both of Friends and Enemies, to a private Self-Defence; and if this be the Law of Nature, we may well call Nature a Step-Mother, that has Armed us to our own Ruine and Confuſion.*

Caſe of Reſiſtance, *Pag.* 203, 204, 205.

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as to ſtand in competition with the very being of Human Societies, and the Safety and Preſervation of all his *Subjects?* and muſt we then defend a Princes Right, with the Deſtruction of the Nation, and the Ruin of all his Subjects? Which is moſt neceſſary, That the Nation ſhould be, or, That ſuch a *Prince* ſhould Govern it. P. 45.

Conſiderations and Reflections upon ſome of Doctor Sherlock's *Celebrated Poſitions, concerning Paſſive Obedience, and Non-Reſiſtance.*

WE ſhall now conſider the Doctor's Reaſons, why the King is *Irreſiſtable* in all Caſes, which are theſe:

1. *That the King has a Perſonal Authority, antecedent to all the Laws of the Land, independent on them, and ſuperior to them.* Caſe of Reſiſtance, *pag.* 196.

Now, This is not true, for the *King* is *King* by *Law*, and has his *Authority* from the *Law*. Indeed, our Author ſays, (in the ſame Page)

That the great Lawyer, Bracton (by those very words of his, *Lex facit Regem*) *was far enough from understanding, that the King receives his Soveraign Power from the* Law. I confess, I never was so well acquainted with *Bracton*, as to know what secret Meanings he had, contrary to the Sense of his Words; and therefore cannot tell how far he was from understanding, That the *King* receives his Soveraign Power from the *Law*; but I am sure he was not far from saying so; for he says it in the very next words; *Attribuat igitur Rex quod Lex attribuit ei, videlicet, Dominationem & Potestatem.* He proves, That the *King* is under the *Law*, and ought to Govern by the *Law*, because he is made *King* by the *Law*, and receives his *Power* and *Authority* from the *Law*; and then adds, what the Doctor is pleased to cite, *Non est enim Rex, ubi dominatur Voluntas, & non Lex: He is no King who Governs by Arbitrary Will, and not by* Law; that is, no lawful *English* King, *Bracton* must mean; for still he may be a good Outlandish and *Assyrian King*, and no *Tyrant*, though his Arbitrary Will does all: For the Doctor (*Case of Resist.* pag. 41.) quotes out of *Dan.* 5. 18, 19. That *God* gave *Nebuchadnezzar* such an *Absolute Kingdom, that whom he would he Slew, and whom he would he made Alive, and whom he would he set up, and whom he would he pulled down.* And I hope no Man Tyrannizes over his People, who uses the Prerogatives which *God* has given him; therefore the Doctor rendring *Lex facit Regem. To Govern by Law, makes a Soveraign Prince a King, and distinguishes him from a Tyrant*, will pass with none but such ordinary Readers as he writ his Book for, and who never saw *Bracton*.

Chancellor *Fortescue* likewise says, That a limitted Monarch receives his Power, *a Populo effluxam*, which unriddles the Doctors Riddle in the same place, *How the* Law *can make the* King, *when the* King *makes the* Law? But it is such a wonderful thing, That there should be a *Law* to create a *King*, and to enable Him so far in the making of *Laws*, as to make his consent necessary to the Being of all future *Laws*? Was it not thus when the Two Houses were Erected, and endowed with the like Power, notwithstanding the Doctor says, (*pag.* 196.) *That the* Law *has no Authority, nor can give any, but what it receives from the* King: For the *Laws* are made *Authoritate Parliamenti*, which is by the *Authority* of the *King*, *Lords* and *Commons*.

But

But, to lay aſide *Bracton* and *Forteſcue*, let us a little reaſon the Matter: This *Perſonal Authority* of the *King*, antecedent to all the *Laws* of the Land independent on them, and ſuperior to them: whence is it? Has he a *Throne* like *God?* Is he of Himſelf and for Himſelf? Or has he a Perſonal Authority from *God*, antecedent to *Laws*, to be a *King?* Then ſhew a Revelation from *God* where he is named. Or has he the *Natural Authority* of a *Father* to Govern his Children? Then it muſt be proved, That he has Begotten his Three Kingdoms, and all the People, in all other His Majeſties Dominions? Or has he a Perſonal Patriarchal Authority, which is ſet up as a ſhadow of the *Authority* of a Father, whereby the Eldeſt *Son* is his *Father* by Repreſentation? Then it muſt be proved, That the *King* is the *Eldeſt Son* of the *Eldeſt Houſe* of all the *Families* of the Earth. Or were Mankind made in the day of their Creation, by *Nations*, and created *Prince* and *People*, as they were created *Male* and *Female?* But if none of theſe things can be ſaid, then it remains, That a Civil Authority, that is, a mutual Conſent and Contract of the *Parties*, firſt Founded this Civil Relation of *King* and *Subject*, as we ſee it every day does of *Maſter* and *Servant*, which is another *Civil Relation*; and that the conſent of a *Community* or *Society*, is a *Law*, and the Foundation of all *Civil Laws* whatſoever, is proved beyond all Contradiction, by Mr. *Hooker*. *Eccl. Pol. lib.* 1. chap. 10.

Another Reaſon which the Doctor gives, why the *King* is *Irreſiſtable in all Caſes*, is, *Becauſe he is a Soveraign; and it is eſſential to Soveraignty, to be Irreſiſtable in all Caſes.* Which is falſe: For the King of *Poland* is a *Soveraign*, he Coins Money with his own Image and Superſcription upon it, which, according to the Doctor, *pag.* 50. *Is a certain Mark of Soveraignty*; and pag. 51. *By the very Impreſſion on their Money, it is evident, That he is their Soveraign Lord:* He ſtiles himſelf by the ſame *Grace of God* with any King in Chriſtendom, and wears the like Crown: He aſſembles *Diets*; he diſpoſes of all *Offices*; he judges the *Palatines* themſelves, and is full of the Marks of Soveraignty. And yet he that ſhall take a *Poliſh Penny*, and make ſuch work with it, as the Doctor does with the *Roman Tribute Money*, and out of it read Lectures, either of *Active or Paſſive Obedience* in all Caſes, will read amiſs: For in caſe he break his Coronation Oath,

they owe him no *Obedience* at all, of any kind; for this is one Clauſe in it: *Quod ſi Sacramentum meum violavero, incolæ Regni nullam nobis obedientiam præstare tenebuntur.* So that in caſe he violate his Oath, his *Irreſiſtibility* departs from him, and he becomes like other Men.

I come now to the Doctor's Second Caſe; which is reſolv'd under the covert and countenance of the former, *That as well inferior Magiſtrates, as others imployed by a* Popiſh *Tyrannical Prince, in the moſt Illegal and Outragious Acts of Violence* (*ſuch as Cutting of Throats*, &c.) *are as Irreſiſtable as the Prince himſelf* (under pretence of having the Prince's Authority to do theſe Acts) *and muſt be ſubmitted to, under pain of Hell and Eternal Damnation.* Now, to ſhew the Authority which we are bound to ſubmit to, *not in* Laws, *but in Perſons* who act contrary to Law, he has brought the following Argument, which is the moſt laboured of any in his Book: *Nay, it is very falſe and abſurd to ſay, That every Illegal, is an Unauthoritative Act, which carries no Objection with it. This is contrary to the Practice of all Human Judicatures, and the daily Experience of Men, who ſuffer in their Lives, Bodies and Eſtates, by an unjuſt and illegal Sentence: For the moſt illegal Judgment is Valid, till it be revers'd by ſome Superior Court; which moſt Illegal, but Authoritative Judgment, derives its Authority, not from the* Law, *but the Perſon of him whoſe Judgment it is.* Caſe of Obed. *Pag.* 193, 194, 195.

Now, to uſe his own words, this is very falſe and abſurd all over. For *Firſt*, Legal and Authoritative are all one; and Illegal Authority is in *England*, unlawful lawful Power. *Secondly*, It is not true, That an Illegal Judgment is valid, till it be revers'd: For the Judgment of a Man to Death, in an Arbitrary way, either contrary to the Verdict of his Jury, or without a Jury, is not Authoritative nor Valid at all, no not for an hour. But, I ſuppoſe, by *illegal Judgments*, the Doctor means *legal Judgments*, which have Error in them; and if theſe ſhould not be Valid, and ſtand good, till that Error be found in ſome Higher Court, there could not be *legal* nor *illegal*, nor any Judgments at all; but all human Judicatures muſt come to an end: For if Judgment cannot be given, till we have Judges who are not ſubject to Error, the Laws muſt lye by and ruſt, and there can be no adminiſtration of Juſtice. *Thirdly*, The Authority of a Judgment which is Erroneous,

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is not from the Judges Perſonal Authority above the Law, nor from his Miſtakes beſide the Law; but from that Juriſdiction and Authority which the Law has given to Courts and Judicial Proceedings, which, if they be in due courſe of Law, are legal, and are preſumed to be every way right, and as they ſhould be, and free from Error, till the contrary appears in ſome Higher Court. But if the Judges in *Weſtminſter-Hall* ſhould uſe a Perſonal Authority, ſuperior to Law, in judging Men to Death without a Jury, or in condemning a Man when his Jury acquit him, or the like, the Law having given no Authority to any ſuch Proceedings, theſe Judgments would be illegal and void, and have no Authority at all.

Secondly, Another Reaſon why we muſt ſubmit to *Illegal Violence* is this: *Becauſe though they have no legal Authority for it, yet we have no legal Authority to defend our ſelves againſt it*, pag. 192. But he himſelf has given as full an Anſwer to this as can be deſired, in theſe words, *For no Man can want Authority to defend his Life againſt him that has no Authority to take it away*, pag. 59.

Thirdly, We muſt ſubmit to *Illegal Violence*, becauſe *the People cannot call inferior Magiſtrates to an Account*, pag. 191. But ſure the People may defend themſelves againſt the Murderous Attempts of inferior Magiſtrates, without pretending to call them to an account, or ſitting in Judgment upon them: And when they themſelves are called to an account for this Defence, they may give a very good account of it, by the 24 *H.* 8. *cap.* 5.

Fourthly, *We muſt not defend our ſelves when we are Perſecuted to Death for our Religion, contrary to the Laws of* England, *becauſe we muſt not defend our ſelves, when we are thus Perſecuted, contrary to the Laws of* God *and Nature, which are as Sacred and inviolable as the Laws of our Country.* Caſe of Alleg. *p.* 200.

Anſwer. I grant, That the Laws of *God* and *Nature* are more ſacred and inviolable than the Laws of our Country; but they give us no Civil Rights and Liberties, as the Laws of *England* have done. Every Liege Subject of *England* has a legal Property in his Life, Liberty and Eſtate, in the free Exerciſe of the *Proteſtant Religion* eſtabliſhed amongſt us; and a legal Poſſeſſion may be legally defended: Now, the Laws of *England*, in Queen *Mary*'s Time were againſt the *Proteſtants*, and ſtript them of this unvaluable Bleſſing; and there-

fore, tho' they choſe rather to obſerve the Laws of *God* and Nature, than thoſe of their Country, which at that time violated both the other; yet, withal, they ſubmitted to the Laws of their Country, which alone give and take away all legal Rights and Titles, and, when all is ſaid, are the only Meaſures of Civil Obedience.

Fifthly, *Men muſt not defend their Lives againſt a lawleſs* Popiſh *Perſecution, when they are Condemned by no Law, becauſe they muſt not defend their Lives, when they are Condemned by a Wicked, Perſecuting,* Popiſh *Law: For ſuch a lawleſs Perſecution, has as much Authority as ſuch a Wicked Perſecuting Law.* pag. 202. This is manifeſtly falſe: For a lawleſs *Popiſh* Perſecution has no Authority at all, but has all the Authority of Heaven and Earth againſt it; whereas a wicked *Popiſh*, Perſecuting Law, tho', as it is wicked, it cannot Command our Obedience; yet, as it is a Law, it may diſpoſe of our Civil Rights. If Queen *Mary*'s Laws were no Laws, becauſe they were wicked Perſecuting Laws, why were they Repealed? why were they not declared to be null from the beginning?

Sixthly, *That Non-Reſiſtance of Illegal Violence, is the beſt way to ſecure the publick Peace and Tranquility, and the beſt way for every Man's private Defence; for ſelf-defence may involve many others in Blood, and beſides, expoſes a Man's ſelf.* pag. 205, 206. That is to ſay, when the publick Peace is violated in an high manner, the beſt way to ſecure it, is quietly to ſuffer it ſtill to be broken further; a Man's beſt defence is to Die patiently, for fear of being Killed: And when Murtherers are broke looſe, the only way to prevent the effuſion of more Chriſtian Blood, is to let them alone. Now, in oppoſition to this Doctrine, I ſhall only remember the Doctor, That if there had not been a Defence made againſt the *Iriſh Cut-Throats* in *Forty One*, though they had the Impudence to pretend the King's Commiſſion, there had hardly been a *Proteſtant* left, but the Peſtilent *Northern Hereſie* had been throughly extirpated in that Kingdom.

Seventhly. Another Reaſon is, *Becauſe Non-Reſiſtance is certainly the beſt way to prevent the change of a Limited, into an Abſolute Monarchy, pag.* 212. Now, this is ſo far from being true, that on the other hand, abſolute *Non-Reſiſtance*, even of the moſt illegal Violence, does actually change the Government, and ſets up an *Abſolute* and *Arbitrary Power* in the ſhorteſt way, and by the ſurer ſide. For a Prince,

Prince, whom the Laws themſelves have made *Abſolute*, has thereby no more than a Right and Title to an *Abſolute Subjection*; but *Non-Reſiſtance* puts him into the actual Poſſeſſion of it. The Doctor himſelf has made this out beyond all contradiction; for, he ſays, That *Non-Reſiſtance* is as perfect *Subjection*, as can be paid to Soveraign Princes, *pag.* 44. and 115. he calls it, *The only perfect and abſolute Subjection we owe to Princes.* Now, the moſt perfect and abſolute Subjection that can be paid, erects the moſt abſolute Government that can be deviſed. For theſe words are of Eternal Truth, which we read in *pag.* 64. of this Book; *For Authority and Subjection are Correlates, they have a mutual reſpect to each other, and therefore they muſt ſtand and fall together: There is no Authority, where there is no Subjection due; and there is no Subjection due, where there is no Authority.* And is not this as bright and as evident a Truth: There is no abſolute Authority, where there is no abſolute Subjection due; and there can be no abſolute Subjection due, where there is no abſolute Authority?

I ſhall now produce ſome Reaſons, to prove the Lawfulneſs of Defending our ſelves againſt Illegal Violence; which is a Truth ſo obvious, and ſo agreeable to the common ſenſe of Mankind, that even thoſe Men, who ſet themſelves to oppoſe it, do often times aſſert it unawares, and give unanſwerable Reaſons for it; I ſhall therefore, firſt ſet down thoſe Conceſſions which the force of Truth hath Extorted from the Doctor, and ſecondly, add ſome other Arguments to them.

Firſt, *No Man wants Authority to defend his Life againſt him who has no Authority to take it away*, pag. 69. *But no Man whatſoever has any juſt and legal Authority*, (that is, any Authority at all,) *to take it away contrary to Law*, pag. 191. And from theſe Premiſes, it is eaſie for any Man to infer the Concluſion.

Secondly, *He that Reſiſts the Uſupations of Men, does not Reſiſt the Ordinance of God, which alone is forbidden to be Reſiſted. But Acts of Arbitrary and Illegal Violence, are the Uſurpations of Men.* Theſe again are the Doctors Doctrines, the former, *pag.* 128. the other, *pag.* 211. 212. he acknowledges, that the aſſuming of an Abſolute and Arbitrary Power in this Kingdom, would be Uſurpation; though he ſays at the ſame time, *That no Prince in this Kingdom ever Uſur-*

ped such a Power, which is notoriously false; for *Richard* the Second by Name did, not to mention any other.

Thirdly, The Doctor, *pag.* 126. has these words, *Every Man has the Right of Self-Preservation, as intire under Civil Government, as he had in a State of Nature: Under what Government soever I live, I may still kill another Man, when I have no other way to preserve my life from unjust Violence by private Hands.* Now the Hands of Subordinate Magistrates, Imploy'd in Acts of Illegal Violence, are private Hands, and Armed with no manner of Authority at all; of which this is a most convincing Proof, *That they may be Hanged by Law for such Acts, which no Man can or ought to Suffer for what he doth by Authority.* They are no Officers at all in such Acts, for Illegal Violence is no part of their Office. Now, after the Doctor has answered his own Arguments, I shall desire him to do as much for these which follow.

First, No Man can Authorize himself: But in Acts of Illegal Violence is a Subordinate Magistrate have any Authority at all, he must Authorize himself: For it is a contradiction to say, The Law Authorizes him to do an Illegal Act, as the Doctor well observes, *pag.* 195. And it is as false to say, *That the King, who can do no wrong, can Authorize another to do it.* In the great Conference of the Lords and Commons, 3 *Caroli*, concerning the Contents of the Petition of Right, the Law was held to be, *That if the King Command a Man to do Injury to another, the Command is void, and the Actor of it Author, and the Actor becomes the Wrong doer*; that is, he Acts of his own Head, and Authorizes himself.

Secondly, The Illegal Violence of Subordinate Magistrates cannot be more Irresistible, only by being more Criminal than it is in other Men; for that would be to make a Mans Crime to be his Protection. But Illegal Violence done by subordinate Magistrates, is not only as *in Authoritative*, as if it were committed by private Persons, but likewise more Criminal, as being done with a face and colour of Authority, and under pretence of Law, making that partaker of their Crime, violating and blemishing the Law at once.

FINIS.